**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 2894 OF 2006**
**IN**

**APPEAL NO. 454 OF 2006**
**IN**
**COMPANY PETITION NO. 262 OF 2005**

1. Seth Industries Ltd. & 3 ors. ] .. Appellants (Ori.Res.1 to 4)

Versus

1. Bela Vikram Sehgal & 3 ors. ] .. Respondents (1&2 Ori.Petnrs. 3&4-Interveners)

Mr. C.U. Singh, senior counsel with Mr.Armin Wandrewala i/b Mr. Madhukar Haramwar for appellants.

Mr. Y.V. Sanglikar with Mr. A.C. Shah for the respondents No.1 and 2.

Mr. Cyrus Ardeshir i/b M/s. Kanga & Co. for respondent No.3.

Ms. Gayatri Singh for respondent No.4.

**CORAM: R.M. LODHA &**
**S.A. BOBDE, JJ.**

**DATED: 29TH AUGUST, 2006**

**P.C. :**

. We heard the counsel for respondents No.1 and 2 in support of the Notice of Motion and Mr. C.U. Singh, the senior counsel for the appellants in opposition to the Notice of Motion.

2. The counsel for respondents No.1 and 2 relied

upon the judgment of the Supreme Court in the case of **Midnapore Peoples' Coop. Bank Ltd. Vs. Chunilal Nanda & Ors., (2006) 5, SCC, 399** in support of his contention that Appeal is not maintainable against the order of admission of winding up Petition.

3. That an order of admission of winding up Petition is seriously prejudicial to the company is beyond doubt. In **Shankarlal Agarwal Vs. Shankarlal Poddar, AIR 1965, SC, 507**, the Apex Court approved the Division Bench judgment of this Court in **Western India Theatres Vs. Ishwarbhai Somabhai Patel, AIR 1959, Bom. 386** holding that an order directing advertisement of winding up of the company is an appealable order. In the subsequent decision in the case of **M/s. Golcha Investment (P) Ltd. Vs. Shanti Chandra Bafna, AIR 1970, SC, 1350**, the three-Judge Bench of the Supreme Court reiterated the aforesaid legal position and held that an order of a Company Judge directing advertisement of a winding up application is appealable under Section 483 of the Companies Act. From admission of a winding up petition, advertisement of winding up petition follows and, therefore, *prima facie* it cannot be said that the Appeal is not maintainable. As a matter of fact, the Appeal has already been admitted. Since the order of admission of winding up petition passed by the

Company Judge is amenable to Appeal under Section 483 of the Companies Act, 1956, it is immaterial if such order is not appealable under clause 15 of the Letters Patent even if it is assumed to be not judgment within the meaning of that clause.

4. In this view of the matter, the Notice of Motion has no merit and is rejected.

Sd/-
**[R.M. LODHA, J.]**

Sd/-
**[S.A. BOBDE, J.]**